
DIGEST

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Sam Jones

HB No. 277

Abstract: Creates the St. Mary Hydroelectric Authority as a political subdivision in St. Mary Parish and provides for the governance and powers and duties of the district. Provides for district funding.

Proposed law creates the St. Mary Hydroelectric Authority as a political subdivision of the state, to be comprised of all of the territory in St. Mary Parish lying within the watershed of the Wax Lake Outlet and the Atchafalaya River and their tributaries. The district shall be domiciled in St. Mary Parish.

Proposed law provides that the district shall be governed by a board of 11 commissioners composed as follows:

- (1) The state representative who represents House District No. 50, or his designee.
- (2) The state representative who represents House District No. 51, or his designee.
- (3) The state senator who represents Senate District No. 21, or his designee.
- (4) Two members appointed by the president of St. Mary Parish, subject to the approval of the parish governing authority.
- (5) One member appointed by the mayor of the town of Baldwin, subject to the approval of the municipal governing authority.
- (6) One member appointed by the mayor of the town of Berwick, subject to the approval of the municipal governing authority.
- (7) One member appointed by the mayor of the city of Franklin, subject to the approval of the municipal governing authority.
- (8) One member appointed by the mayor of the city of Morgan City, subject to the approval of the municipal governing authority.
- (9) One member appointed by the mayor of the city of Patterson, subject to the approval of the municipal governing authority.

- (10) One member appointed by the chief of the sovereign nation of the Chitimacha Tribe of La., subject to the approval of the tribal council, or one member appointed pursuant to any method determined by the tribal council.

Requires appointed members to serve four-year staggered terms. Provides that elected officials shall serve during their term of office. Provides that a designee shall serve at the pleasure of the designating authority. Provides for reimbursement of expenses of board members. Otherwise provides members serve without compensation.

Provides for a chairman, vice chairman, and other officers elected by the board from its membership. Provides for a secretary, treasurer, or secretary-treasurer who shall not be board members and authorizes the board to fix their compensation. Authorizes the board to hire employees, including engineers and attorneys and a general manager.

Proposed law provides that the district shall be an agency and instrumentality of the state required by the public convenience and necessity for the carrying out of the functions of the state, and shall be a corporation and body politic and corporate, with power of perpetual succession, invested with all powers, privileges, rights, and immunities conferred by law upon other corporations of like character, including but not limited to port authorities, port commissions, and port, harbor, and terminal districts within the state.

Proposed law provides that the district shall not have the power to levy taxes, but it may assess and collect charges, fees, and rentals for the use of its properties and facilities and for the construction, installation, maintenance, and operation of such properties or facilities owned by it or in which it has an interest only for the purpose of and directly related to generating or transmitting hydroelectric power.

Proposed law provides that the district and its operating income shall be exempt from taxation within the state. Additionally provides that any bonds issued pursuant to proposed law and their transfer and income therefrom shall be exempt from taxation within state.

Proposed law provides that the district is not an instrumentality of the state for purposes of the state civil service provisions of the state constitution.

Proposed law limits that district's power, authority, and jurisdiction to the geographical boundaries of St. Mary Parish. Requires that all of the district's actions be solely for the purpose of generating or transmitting hydroelectric power. Provides for the powers and duties of the district, including but not limited to the following:

- (1) To have a corporate seal.
- (2) To acquire, hold, pledge, encumber, lease, and dispose of real and personal property within its territorial jurisdiction.
- (3) To enter contracts, conveyances, mortgages, deeds or trusts, bonds, and leases.

- (4) To let contracts for construction or acquisition of property and facilities.
- (5) To incur debts and borrow money, but no debt so incurred shall be payable from any source other than the revenues to be derived by the district from sources other than taxation.
- (6) To fix, maintain, collect, and revise rates, charges, and rentals for the facilities of the district and the services rendered thereby, including but not limited to all charges for services and goods provided by or through the Wax Lake Outlet and the Atchafalaya River.
- (7) To enter into agreements of any nature for the operation of all or any part of the properties and facilities of the district.
- (8) To control in order to utilize and distribute the waters of the rivers and streams of the Wax Lake Outlet and the Atchafalaya River watershed, including but not limited to all waters flowing through the Wax Lake Outlet and the Atchafalaya River. Provides for the district to provide for the use and regulation of such waters, to preserve the rights of people in the watershed in beneficial use of the waters, to provide for equitable distribution of waters for potential uses. Specifies that the district shall not construct, own, or lease any electric transmission or distribution lines.
- (9) To utilize the waters of the Wax Lake Outlet and the Atchafalaya River for the generation of electric power, to sell the use of the water of such waterways for the production of electric power, to provide or furnish power and to that end to construct, maintain, operate, or lease any or all hydroelectric generating facilities within its territorial jurisdiction useful for such purpose.
- (10) To purchase or construct facilities and to purchase or otherwise acquire property.
- (11) To enter into contracts for sale and use of hydroelectricity.

Proposed law provides that it does not intend to restrict use of water from the Wax Lake Outlet or Atchafalaya River or outside of St. Mary Parish except for hydroelectric power generation. Provides that the utility shall not pay the district for power it is prevented from generating.

Proposed law grants the district such authority and power to control and regulate the waters of the Wax Lake Outlet and the Atchafalaya River and its tributaries as may be exercised by the state, subject to the constitution.

Proposed law authorizes the board to cooperate with the U.S. government and to contribute financially to the expense of such improvement projects as are or may be authorized or adopted by the U.S. Further authorizes the district to cooperate with all agencies, departments, and subdivisions of the state in all undertakings, the purpose of which will be the furtherance of the objects and purposes for which the district is created. Confers upon the state, its departments,

agencies, and political subdivisions the authority to make contributions or grants to the district and to enter into contracts or agreements for any purposes of proposed law.

Proposed law authorizes the district to locate, construct, operate, and maintain any of its works or facilities over, under, through, in, or along any of the lands which are the property of the state, its subdivisions or instrumentalities pursuant to a cooperative endeavor agreement between the district and the appropriate state entity. Further authorizes the district and its authorized agents and employees to enter upon any lands, waters, and premises in the state for certain purposes. Requires the district to make reimbursement for actual damages resulting from entering upon any lands, waters, and premises in the state.

Proposed law provides that for the purpose of providing funds for the acquisition of any property or facilities which the district is authorized to acquire, including the acquisition of water rights, and for extending and improving any such property and facilities, the district may from time to time incur debt and issue revenue bonds. Authorizes refunding bonds, certificates of indebtedness, and other debt. Provides further with respect to such bonds.

Proposed law grants the district the right to acquire lands, servitudes, and rights-of-way in St. Mary Parish solely for the purpose of generating or transmitting hydroelectric power by purchase, exchange, expropriation, or otherwise. Provides for sale of any timber the district may acquire.

Proposed law requires that the district develop and adopt an initial five-year projected administrative budget and to thereafter develop and adopt an annual budget for administrative costs based upon a baseline established by the projected budget.

Proposed law requires the district, beginning the first year in which the district adopts an annual budget for administrative costs, to use at least 90% of its revenues to provide hurricane protection for electrical transmission and distribution in St. Mary Parish. Authorizes the district to enter into a cooperative endeavor agreement for such purpose with any electrical system providing services in St. Mary Parish. Provides that no more than 10% of revenues earned by the district shall be used for administrative costs after the initial five-year period.

Proposed law requires that all actions taken by the district be implemented only to the extent they are not in conflict with and are consistent with the Atchafalaya Basin Master Plan or Annual Basin Plan and the Coastal Protection and Restoration Authority's Master Plan for coastal protection and restoration for a sustainable coast.

Proposed law requires the district to keep a complete book of accounts. Requires, within 180 days after the close of each fiscal year, that the account books and records of the district and of the district's depository be audited by the legislative auditor, or a CPA, in such manner as to enable him to report to the legislature as to the manner and purpose of the expenditure of all funds of the district. Requires that two copies of the report be filed in the office of the district, one filed with the legislative auditor.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 33:4550.1-4550.12)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill.

1. Added a provision that limits the authority granted to the district to assess and collect charges, fees, and rentals for the use of its properties to purposes directly related to generating or transmitting hydroelectric power.
2. Added a provision that limits the district's power, authority, and jurisdiction to the geographical boundaries of the parish of St. Mary. Added a provision that requires that all of the district's actions be for the sole purpose of generating or transmitting hydroelectric power.
3. Removed a provision that authorizes the district to do all things necessary or convenient to carry out its functions.
4. Added provisions that expand the authority granted to the district to provide for the equitable distribution of waters for potential uses to include maritime and port purposes.
5. Added a provision that prohibits the district from installing any structures or facilities other than for hydroelectric purposes.
6. Removed provisions that require that all plans and works provided by the district have the primary regard to the necessary and potential needs for water. Removed provisions that authorize the district to provide for the use of waters for commercial and industrial enterprises and for the use of waters for the development and distribution of hydroelectric power.
7. Added a provision that proposed law does not intend to restrict use of water outside of St. Mary Parish except for hydroelectric power generation. Added a provision to clarify that the utility shall not pay the district for power it is prevented from generating if the district restricts the use of water within the parish for electric generation.
8. Added the requirement that the district enter into a cooperative endeavor agreement with the appropriate state entity prior to locating, constructing, operating, and maintaining any of its works or facilities on state property. Removed the provisions that authorize the district to locate, construct, operate, and maintain its works and facilities on state property without obtaining consents, licenses, or permits.
9. Removed provisions that the entry upon any lands, waters, and premises in the state

- by the district or its authorized agents shall not be deemed a trespass or an entry under any expropriation proceedings if the district gives prior notice to the property owner.
10. Removed provisions that grant the district the right to use all waters and to possess all water rights in the waters of the Wax Lake Outlet and the Atchafalaya River and its tributaries necessary for district purposes.
 11. Added a provision that limits the rights granted to the district to acquire lands, servitudes, and rights-of-way. Provided that such rights shall be exercised only within St. Mary Parish and shall be solely for the purpose of generating or transmitting hydroelectric power.
 12. Removed minimizing damage to critical infrastructure as a goal of hurricane protection efforts of the district. Also removed provisions that such hurricane protection shall be considered a public purpose.
 13. Removed provisions that no publication of any notice or proceeding is necessary except as provided in proposed law. Also removed provisions that the proceedings adopted by the district's board shall not be subject to referendum or any election requirement.